

Remarks

Claims 1 - 21 are pending in the application and are currently under rejection. Claims 10 and 18 have been cancelled. Claim 4 has been amended. No new matter has been added by these amendments. Applicants respectfully request reconsideration based on the remarks below.

Objections

The Office Action asserts that the subject matter as set forth in claims 4 and 10 are not shown on the drawings. Claim 4 has been amended and claim 10 has been canceled herein, thereby rendering the objections moot.

The Office Action asserts that the “handle” recited in claim 18 is not shown on the drawings. Claim 18 is cancelled herein, rendering that objection moot.

The Office Action asserts that the claim term “shaped to substantially enclose” lacks antecedent basis in the specification. That assertion is incorrect. Paragraph [0009] discloses that “Fig. 3 is a side elevation view of a flushable plunger cover according to an embodiment of the invention, substantially enclosing a plunger being used to unclog a toilet.” Therefore, not only does the specification provide antecedent support for the claim term, but the drawings do as well. Withdrawal of this objection is requested.

Rejection Under 35 USC § 112

Rejection of Claim 11

The Office Action asserts that claim 11 is unclear as to whether the plunger is intended to be part of the claimed combination since structure of the “cover” is defined as being connected thereto. That assertion is incorrect. Claim 11 defines the cover as having “a concave bottom that substantially conforms to a concave plunger cup.” Claim 11 does not state that the cover is connected to a plunger. As illustrated in the figures, substantially conforming means that the concave shape of the plunger cover bottom corresponds to the concave shape of the plunger cup, and not, as the Office Action alleges, that the concave bottom of the cover is somehow connected to the plunger cover. Therefore, this rejection is deemed to be without foundation, and should be withdrawn.

Rejections Under 35 USC § 102(b)

Rejection of Claims 1, 2, 4, 12 – 14 and 20

Claims 1, 2, 4, 12 – 14 and 20 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by US Patent 4,136,798 to Oberstein. Applicant respectfully traverses the rejection.

Contrary to the examiner's contention, Oberstein does not disclose each and every element of the presently claimed invention. Oberstein discloses a film that is stable and non-water soluble at temperatures above about 60°F, but water soluble below that temperature (see col. 3, lines 40 – 45). In other words, Oberstein teaches maintaining integrity of the film by avoiding contact with water below 60°F. That approach works for Oberstein because his teachings suggest that during use (i.e., in the bedpan) the film maintains its integrity by being exposed to only warm liquids (e.g., urine), but breaks down after use when the film is exposed to liquids below 60°F (e.g., toilet water). Such an approach would not work in the present invention because, as presently claimed, the cover must maintain its integrity during use, use that includes immersion in toilets having water temperatures below 60°F. Consequently, Oberstein fails to teach or suggest a cover for a plunger that maintains integrity during use of the plunger, as presently claimed.

Moreover, Oberstein fails to teach or suggest a cover having a layer of water-soluble joined to a flushable paper material, the cover being shaped to substantially enclose a plunger. At best, Oberstein teaches a material for covering a bed pan. The structure and use of a bed pan are significantly different from the structure and use of a plunger. Consequently, Oberstein fails to teach or suggest a plunger cover shaped to substantially enclose a plunger.

For the reasons above, Applicant respectfully submits that Oberstein does not anticipate claims 1, 2, 4, 12 – 14 and 20, and requests that the rejection of those claims be withdrawn.

Rejection of Claims 1 – 3, 5, 10, 14 – 16, 18 and 20

Claims 1 – 3, 5, 10, 14 – 16, 18 and 20 were rejected under 35 U.S.C. 102(b) as allegedly being anticipated by US Patent 3,654,064 to Laumann. Applicant respectfully traverses the rejection.

First, in its “simplest form,” Laumann discloses a sheet that includes three layers: (1) a paper or non-woven paper-like fabric which is readily water-disintegratable or water soluble; (2) a thin layer of polyethylene or other suitable plastic; and (3) a modified wax top coating (see col. 4, lines 2 – 29). Laumann’s modified wax top coating is essential in order to prevent the Laumann sheet from disintegrating when wetted (see col. 4, lines 29 – 35). In contrast, the presently claimed invention does not require a modified wax top coating in order to prevent the sheet from disintegrating when wetted. Instead, the chemical make-up of the water-soluble film allows the film to “maintain its integrity during use” without the need for an additional layer.

Moreover, it would not be obvious to simply remove Laumann’s wax top coating to achieve a structure having only two layers. As disclosed in Laumann, such a structure would simply disintegrate upon wetting. A structure that disintegrates upon wetting would be unable to keep a plunger dry while the plunger is used to remove blockages in wet areas (e.g., toilet, sink). Consequently, Laumann’s structure, which requires, at a minimum, three necessary layers, simply cannot anticipate the presently claimed structure, which recites a structure comprising a layer of a flushable paper material joined to a layer of a film soluble in water.

Second, Laumann fails to disclose a layer of flushable paper material distinct from a layer of water soluble film, as presently claimed. Instead, Laumann discloses only a single layer that is water soluble, that layer being the paper layer. The other two Laumann layers simply are not water soluble. The polyethylene layer is made up of polyethylene or a similar plastic. Polyethylene is a hydrophobic polymer. A hydrophobic polymer cannot, by definition, be water soluble. The wax top coating is termed a water-repellent coating (see col. 1, ll. 25 – 29), which, by definition, cannot be water soluble. Consequently, Laumann’s structure fails to disclose a layer of flushable paper material distinct from a layer of water soluble film.

For the reasons above, Applicant respectfully submits that Laumann does not anticipate claims 1 – 3, 5, 10, 14 – 16, 18 and 20, and requests withdrawal of this rejection.

Rejections Under 35 USC § 103(a)

As detailed in the arguments above, Laumann and Oberstein lack substantive elements of the claimed invention. Those missing elements cannot be ignored merely by stating that the present claims are obvious based on a combination of Laumann, Oberstein, and/or other references. To establish a *prima facie* case of obviousness, a reference or combination of references must: (1) suggest to those of ordinary skill in the art that they should make the claimed invention, and (2) reveal to those of ordinary skill in the art that they would have a reasonable expectation of success. *In re Vaeck*, 20 USPQ2d 1438, 1442 (Fed. Cir. 1991). Both the suggestion and the reasonable expectation of success must be found in the prior art and not in the Applicant's disclosure. *In re Dow Chemical Company*, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988). In this case, there is neither a motivation to combine the references, nor a reasonable expectation of success should the references be combined.

Rejection of Claims Claims 4, 6 and 17

Claims 4, 6 and 17 were rejected as allegedly being rendered obvious by Laumann. Applicant respectfully traverses the rejection.

For the reasons stated above, Laumann does not teach or suggest the presently claimed invention. In particular, Laumann fails to teach or suggest (1) a structure that will withstand immersion without a wax top coating to prevent disintegration, and (2) a structure that includes a layer of flushable paper material distinct from a layer of water soluble film. Because Laumann fails to teach or suggest the structure recited in claim 1, it cannot teach or suggest the structure of claim 1 having the additional elements recited in claims 4, 6, and 17. Therefore, Applicant respectfully submits that Laumann does not render obvious claims 4, 6, and 17, and requests this rejection be withdrawn.

Rejection of Claims 1 – 10, 12, and 14 – 20

Claims 1 – 10, 12, and 14 – 20 were rejected as allegedly being rendered obvious by Laumann in combination with U.S. 3,762,454 to Wilkins, Jr. Applicant respectfully traverses the rejection.

As explained above, Laumann lacks substantive elements of the presently claimed invention. Wilkins fails to remedy the failings of Laumann.

There is no motivation to combine the teachings of Laumann with the teachings of Wilkins. In fact, Wilkins teaches away from such a combination. Wilkins teaches a disposable garbage container. The “container is relatively high tensile strength and tear resistance, and is *insoluble in cold water*” (see col. 3, ll. 9 – 11). Wilkins does disclose a cold water soluble material, but only in combination with a hot water soluble material. In contrast, Laumann teaches a sheet that tears and disintegrates readily when “wetted (as when flushed in toilet)” (see col. 1, ll. 49 – 52). One skilled in the art would simply not be motivated to combine Wilkins’ teaching of a container that is insoluble in cold water with Laumann’s teaching of a sheet that disintegrates in cold water.

Even if Laumann is combined with Wilkins, such a combination would not result in the claimed device. The only water soluble layer taught in Laumann is the paper layer. So, the only way to combine Laumann with Wilkins is to replace the paper layer of Laumann with the cold water/hot water soluble layer of Wilkins. The result is a structure having a wax top coating, a cold water/hot water soluble layer, and a polyethylene layer. The resulting structure does not have a layer of a flushable paper material joined to a layer of a film soluble in water. Moreover, the only water soluble layer in the resulting structure is between two water insoluble layers thereby preventing the layer from being exposed to water and thereby preventing the structure from dissolving in water. Consequently, the resulting structure is fundamentally different in structure than the presently claimed invention.

Therefore, Applicant respectfully submits that the combination of Laumann and Wilkins does not render obvious claims 1 – 10, 12, and 14 – 20, and requests withdrawal of this rejection.

Rejection of Claim 13

Claim 13 was rejected as allegedly being rendered obvious by Laumann in combination with Oberstein. Applicant respectfully traverses the rejection.

The examiner contends that it would be obvious to add the seam taught in Oberstein to the structure taught in Laumann to reach the presently claimed invention. That contention

is incorrect to for at least two reasons. First, as noted above, Laumannn does not teach or suggest the presently claimed invention. Second, Oberstein does not teach or suggest a “resealable seam” as presently claimed. Oberstein instead teaches merely an adhesive seam that can be readily separated by the exertion of a separating force. (see col. 3, 18 – 20). It does not teach or suggest that the seam can be resealed. Consequently, Oberstein fails to teach or suggest an element of claim 13.

Therefore, Applicant respectfully submits that the combination of Laumann and Oberstein does not render obvious claim 13, and requests that this rejection be withdrawn.

Rejection of Claim 21

Claim 21 was rejected as allegedly being rendered obvious by the combination of Laumann, Wilkins, and U.S. 2,232,088 to Waters. Applicant respectfully traverses the rejection.

As noted above, there is no motivation for one skilled in the art to combine Laumann and Wilkins, and even if Laumann and Wilkins were to be combined, the combination would not teach or suggest the presently claimed invention. The addition of Waters fails to remedy the deficiencies of the combination of Laumann and Wilkins. That is, the addition of Waters does not overcome the fact that the combination of Laumann and Wilkins produces a structure that is fundamentally different than the presently claimed structure, and a structure that is not functional for its intended purpose. Therefore, Applicant respectfully submits that the combination of Laumann, Wilkins, and Waters does not render obvious claim 21, and requests withdrawal of this rejection.

Conclusion

Based on the foregoing, all claims are believed in condition for allowance. Withdrawal of all objections and rejections and an early notice of allowance are earnestly solicited.

Respectfully submitted,

DENNIS DAVIDSON

By: 

GREGORY J. LAVORONA

Registration No. 30,469

DRINKER BIDDLE & REATH LLP

One Logan Square

18th and Cherry Streets

Philadelphia, PA 19103-6996

Phone: (215) 988-3309

Fax: (215) 988-2757

Attorney for Applicant